REMARKS

The Examiner's continued attention to the present application is noted with appreciation. A claims chart is included below to assist in the understanding of the history of claims which the Examiner indicated as containing allowable subject matter in the Office Action, specifically claims 7 and 17. The Examiner stated that claims 8-10 and 18-20 were allowed, thus these claims have not been amended, except that any "means for" language has been changed to "apparatus for". Applicant believes that these minor changes do not affect the allowability of the claims.

The Examiner indicated that claims 7 and 17 would be allowable if they were rewritten in independent form including the limitations of their base claims. New claim 29 was created accordingly, and contains the elements of claim 7 and its base claim 4. New claim 32 was also created accordingly, and contains the elements of claim 17 and its base claim 14. Dependent claims to these claims have been added to the application. A chart follows: Claims 30 and 33 contain the limitations of claims 3 and 13 respectively, claims 31 and 34 contain the limitations of claim 5 and 15 respectively. The language of new claims 29 and 32 differ from prior claims 4, 7, 14, and 17 only to the extent that occurrences of "means" have been changed to "apparatus for", which Applicant believes does not materially affect the allowability of these claims. These claims are thus believed to be in condition for allowance.

Previous Claim Numbers	Current Claim Number
4 + 7 (allowable)	29
14 + 17 (allowable)	32
3 (allowable)	30
5 (allowable)	31
13 (allowable)	33
15 (allowable)	34

In paragraph 3 of the Office Action, the Examiner rejected claims 1 and 11 under 35 U.S.C. § 103 as being unpatentable over Shatto et al. in view of Bertram et al. The rejection is traversed, particularly as to the amended claims. The Examiner stated that, Shatto et al. inquire by a computer, which is correct. Rather, Shatto et al. simply record the turning of a dial by the user in response to inquiries which were made outside of the computer used in the invention. While a computer may record a response in the Shatto et al. device, the computer is not asking a user anything, and thus not "inquiring". The Shatto et al. device is directed toward editing out dull parts of movies. Since Shatto et al. are concerned with determining where the dull portions of a movie are, their device does not show the entire movie to a subject before questions are asked, as recited in Applicant's amended claims 1 and 11. Rather, the motion picture is shown to the subject and the subject has been previously instructed to turn a dial, etc., to indicate the level of excitement that the subject is currently experiencing during the movie, not afterwards.

The Examiner misconstrues the disclosure of Shatto et al. In paragraph 3 of the Office Action, the Examiner stated that the device of Shatto et al. tabulates a percentage of the subjects reporting recognition of the image in the inquiring step. The subjects of the Shatto et al. device are not reporting "recognition". Recognition is defined by Webster's New Collegiate Dictionary as: "knowledge or feeling that an object present has been met before". Thus, recognition is remembering. Watching a movie and turning a dial in response to the level of excitement experienced by the subject does not constitute "recognition by remembrance" as now recited by Applicant's amended claims 1 and 11.

The Examiner further misconstrues the disclosure of Shatto et al. when he states, in the middle of paragraph 3 of the Office Action, that Shatto et al. device relates to whether "each of a plurality of still images from a video presentation are recognized". The Shatto et al. device relates to "motion pictures", the antithesis of which is "still images", as recited in Applicant's claims.

Since Shatto et al. disclose recording data while the subject is viewing the "motion picture", Shatto et al. thus fail to inquire about "still images" as Applicant claims. Shatto et al. fail to tabulate a percentage "for each of the [still] images". Shatto et al. also fail to disclose anything with respect to

viewer recognition. Since the invention of Shatto et al. is so completely different from that of Applicant, the disclosure of Shatto et al. fails to render Applicant's invention obvious.

The disclosure of Bertram et al. is directed toward "visual representations for a network management system" (Col. 1, lines 59-60). One wishing to display images that audience members recall would not look to the network management system of Bertram, et al.

Since the invention of Shatto et al. is, at best, the antithesis of Applicant's invention, simply combining it with the disclosure of Bertram et al. does not somehow produce a disclosure which is similar to the teachings of Applicant, particularly since there are no teachings or hints which would tend to indicate or suggest that the two disclosures should be so combined.

Even if the disclosures of Shatto et al. and Bertram et al. were combined, Applicant's invention would not result. What would result from the combination of these two disclosures would be something where a user turns a dial while simultaneously watching a film. A graph of their emotions would be generated while the film is playing, and not afterwards.

In paragraph 4 of the Office Action, regarding claims 2 and 12, the Examiner stated that "[I]t would have been obvious to have the computation done on a central computer, because this would eliminate the need for a big computer for the subjects, just something to enter the response, this would make it easier to have something smaller for like a theatre crowd." However, the Examiner misconstrues Applicant's invention. Applicant's claim 2 states: "the displaying and inquiring steps are performed on a computer local to each subject, wherein the tabulating step is performed on a central computer networked to each local computer." Thus, Applicant already provides a computer for each of the subjects on which the displaying and inquiring steps are performed. Further, Applicant's invention is primarily directed toward home use by each of the subjects, not toward "like a theater crowd" as the Examiner contends.

In paragraph 5 of the Office Action, the Examiner rejected claims 4, 6, 14, and 16 under 35 U.S.C. § 103 as being unpatentable over Shatto et al. in view of Bertram et al.

As discussed previously, Shatto et al. is directed toward gathering viewer emotions, and not toward determining the magnitude of viewer recall. Shatto et al. show the presentation while simultaneously inquiring, while Applicant inquires about viewer recall after the displaying step (see

amended claims 4 and 14) and not the viewer's emotion. Further, neither Shatto et al., nor Bertram et al, nor any combination thereof disclose converting viewer data into a percentage after it is collected as Applicant claims (see dependent claim 5 and 16).

In paragraph 6 of the Office Action, the Examiner rejected claims 3, 5, 13, and 15 under 35 U.S.C. § 103 as being unpatentable over Shatto et al. in view of Bertram et al. and further in view of Kohen. Independent claims 1, 4, 11, and 14 (from which claims 3, 5, 13, and 15 depend) recite a system or method wherein an inquiring step takes place after a video presentation has been played. As previously discussed, Shatto et al. and Bertram et al. fail to inquire after a presentation. This is because Shatto et al. and Bertram et al. are concerned with cotemporaneous thoughts of a user. Since neither is concerned with a user's memory, neither display an entire video presentation before inquiring of a user's recollections. Combining these two disclosures with yet a third, Kohen, which fails to indicate or even hint that desirable results would be obtained if it were so combined, does not render Applicant's invention obvious.

Kohen does not inquire "of each of the subjects by computer whether each of a plurality of still images from the video presentation are recognized" as Applicant recites in independent claims 1, 4, 11, and 14.

The defects of Shatto et al. and Bertram et al. are not cured by somehow combining the disclosure of Kohen, which requires "at least two different sources of rating information", to render obvious Applicant's invention, which does not require "at least two different sources of rating information". Since Kohen requires "at least two different sources of rating information", the disclosure of Kohen teaches away from Applicant's invention, the sole purpose of which is to evaluate advertisements based on the single source of information which is the percentage of subjects reporting recognition of a particular still image. Since claims 3, 5, 13, and 15 depend from independent claims 1, 4, 11, and 14, these claims are believed allowable over Shatto et al., Bertram et al., and Kohen.

In view of the above amendments and remarks, it is respectfully submitted that all grounds of rejection and objection have been avoided and/or traversed. It is believed that the case is now in condition for allowance and same is respectfully requested.

If any issues remain, or if the Examiner believes that prosecution of this application might be expedited by discussion of the issues, the Examiner is cordially invited to telephone the undersigned attorney for Applicant at the telephone number listed below.

A check for additional claim fees is attached. Authorization is given to charge payment of any additional fees required, or credit any overpayment, to Deposit Acct. 13-4213.

Respectfully submitted,

By: _____

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